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HOUSE BILL 1353

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State of Washington

57th Legislature

2001 Regular Session

By Representatives McDermott, Haigh, D. Schmidt and Miloscia; by request of Public Disclosure Commission

Read first time 01/24/2001. Referred to Committee on State Government.

1 AN ACT Relating to penalties for violation of the campaign finance  
2 and contribution limits, lobbying, political advertising, and public  
3 officials' financial affairs reporting subdivisions of the public  
4 disclosure act; amending RCW 42.17.390 and 42.17.395; adding a new  
5 section to chapter 42.17 RCW; and prescribing penalties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 42.17 RCW  
8 to read as follows:

9 It is the intent of the legislature to increase the authority of  
10 the public disclosure commission and the courts to more effectively  
11 foster compliance with our state's requirements regarding campaign  
12 finance and contribution limits, lobbying, political advertising, and  
13 reporting of public officials' financial affairs. It is the intent of  
14 the legislature to make the agency's penalty authority for violations  
15 of the campaign, lobbying, political advertising, and public officials'  
16 financial affairs provisions in RCW 42.17.010 through 42.17.245 and  
17 42.17.350 through 42.17.790 more consistent with other agencies that  
18 enforce state ethics laws.

1       **Sec. 2.** RCW 42.17.390 and 1993 c 2 s 28 are each amended to read  
2 as follows:

3       One or more of the following civil remedies and sanctions may be  
4 imposed by court order in addition to any other remedies provided by  
5 law:

6       (1) If the court finds that the violation of any provision of this  
7 chapter by any candidate or political committee probably affected the  
8 outcome of any election, the result of said election may be held void  
9 and a special election held within sixty days of such finding. Any  
10 action to void an election shall be commenced within one year of the  
11 date of the election in question. It is intended that this remedy be  
12 imposed freely in all appropriate cases to protect the right of the  
13 electorate to an informed and knowledgeable vote.

14       (2) If any lobbyist or sponsor of any grass roots lobbying campaign  
15 violates any of the provisions of this chapter, his or her registration  
16 may be revoked or suspended and he or she may be enjoined from  
17 receiving compensation or making expenditures for lobbying: PROVIDED,  
18 HOWEVER, That imposition of such sanction shall not excuse said  
19 lobbyist from filing statements and reports required by this chapter.

20       (3) Any person who violates any of the provisions of (~~this~~  
21 ~~chapter~~) RCW 42.17.010 through 42.17.245 and 42.17.350 through  
22 42.17.790 may be subject to a civil penalty of not more than (~~ten~~)  
23 forty thousand dollars for each such violation. However, a person or  
24 entity who violates RCW 42.17.640 may be ordered to return a  
25 contribution illegally accepted and may be subject to a civil penalty  
26 of (~~ten~~) forty thousand dollars or three times the amount of the  
27 contribution illegally made or accepted, whichever is greater.

28       (4) Any person who fails to file a properly completed statement or  
29 report within the time required by this chapter may be subject to a  
30 civil penalty of ten dollars per day for each day each such delinquency  
31 continues.

32       (5) Any person who fails to report a contribution or expenditure as  
33 required by this chapter may be subject to a civil penalty equivalent  
34 to the amount (~~he failed to report~~) not reported as required.

35       (6) Any person found to have violated RCW 42.17.130 or 42.17.190  
36 may be ordered to pay restitution in addition to paying any penalties  
37 imposed.

38       (7) Any person found to have violated RCW 42.17.130 or 42.17.190  
39 may be ordered to pay any civil penalty and any restitution with funds

1 that are not public funds as defined in RCW 43.88.020 or as derived  
2 through taxes, fees, penalties, or other similar sources.

3 (8) Any person subject to RCW 42.17.010 through 42.17.245 or  
4 42.17.350 through 42.17.790 may be ordered to take all actions  
5 necessary to comply with those sections and Title 390 WAC, including  
6 but not limited to the returning of contributions made or received in  
7 violation of RCW 42.17.105(8) or 42.17.640.

8 (9) The court may enjoin any person to prevent the doing of any act  
9 herein prohibited, or to compel the performance of any act required  
10 herein. The court may also enjoin:

11 (a) Any lobbyist, lobbyist employer, or sponsor of a grass roots  
12 lobbying campaign who has not paid penalties imposed by the court or  
13 the commission from registering as a lobbyist, receiving compensation  
14 as a lobbyist, or making expenditures for lobbying purposes until the  
15 lobbyist, lobbyist employer, or sponsor pays such fines in full;

16 (b) Any candidate, authorized committee, political committee, or  
17 the officers or employees thereof who have not paid penalties imposed  
18 by the court or the commission from soliciting, raising, accepting, or  
19 spending campaign funds or contributions until the time such fines are  
20 paid in full. This restriction applies to the political committee  
21 against which an order and remedies were issued as well as to a  
22 political committee that has a majority of the same persons serving as  
23 committee officers as the committee that is subject to the order.

24 **Sec. 3.** RCW 42.17.395 and 1989 c 175 s 91 are each amended to read  
25 as follows:

26 (1) The commission may (a) determine whether an actual violation of  
27 ~~((this chapter))~~ RCW 42.17.010 through 42.17.245 or 42.17.350 through  
28 42.17.790 has occurred; and (b) issue and enforce an appropriate order  
29 following such determination.

30 (2) The commission, in cases where it chooses to determine whether  
31 an actual violation ~~((of this chapter))~~ has occurred, shall hold a  
32 hearing pursuant to the Administrative Procedure Act, chapter 34.05  
33 RCW, to make such determination. Any order that the commission issues  
34 under this section shall be pursuant to such hearing.

35 (3) In lieu of holding a hearing or issuing an order under this  
36 section, the commission may refer the matter to the attorney general or  
37 other enforcement agency as provided in RCW 42.17.360.

1 (4) The person against whom an order is directed under this section  
2 shall be designated as the respondent. The order may require the  
3 respondent to cease and desist from the activity that constitutes a  
4 violation and in addition, or alternatively, may impose one or more of  
5 the remedies provided in RCW 42.17.390(~~((1) (b), (c), (d), or (e))~~) (2)  
6 through (8): PROVIDED, That no (~~individual~~) penalty assessed by the  
7 commission may exceed (~~one~~) five thousand dollars(~~(, and in any case~~  
8 ~~where multiple violations are involved in a single complaint or~~  
9 ~~hearing, the maximum aggregate penalty may not exceed two thousand five~~  
10 ~~hundred dollars)~~) per violation.

11 (5) An order issued by the commission under this section shall be  
12 subject to judicial review under the Administrative Procedure Act,  
13 chapter 34.05 RCW. If the commission's order is not satisfied and no  
14 petition for review is filed within thirty days as provided in RCW  
15 34.05.542, the commission may petition a court of competent  
16 jurisdiction of any county in which a petition for review could be  
17 filed under that section, for an order of enforcement. Proceedings in  
18 connection with the commission's petition shall be in accordance with  
19 RCW 42.17.397.

20 NEW SECTION. **Sec. 4.** If any provision of this act or its  
21 application to any person or circumstance is held invalid, the  
22 remainder of the act or the application of the provision to other  
23 persons or circumstances is not affected.

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